

HOUSE FINANCE COMMITTEE

April 12, 2021

9:03 a.m.

9:03:03 AM

CALL TO ORDER

Co-Chair Merrick called the House Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Kelly Merrick, Co-Chair  
Representative Dan Ortiz, Vice-Chair  
Representative Bryce Edgmon  
Representative DeLena Johnson  
Representative Andy Josephson  
Representative Bart LeBon  
Representative Steve Thompson  
Representative Adam Wool

MEMBERS ABSENT

Representative Ben Carpenter  
Representative Sara Rasmussen

ALSO PRESENT

Representative Matt Claman, Sponsor; Joey Bosworth, Staff, Representative Matt Claman; Representative Dan Ortiz, Sponsor; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit.

PRESENT VIA TELECONFERENCE

Alec Kay, President, Alaska Chapter of the American Physical Therapy Association; Sabrina Javier, Fiscal Analyst, Legislative Finance Division; Sharon Walsh, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Bethel Belisle, Chair, Board of Certified Direct Entry Midwives, Anchorage; Madi Grimes, President, Midwives Association of Alaska, Juneau.

## SUMMARY

### HB 99        PHYSICAL/OCCUPATIONAL THERAPY BD/PRACTICE

HB 99 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

### HB 117        EXTEND BOARD OF DIRECT-ENTRY MIDWIVES

HB 117 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

Co-Chair Merrick reviewed the meeting agenda.

#hb99

### HOUSE BILL NO. 99

"An Act relating to the State Physical Therapy and Occupational Therapy Board; relating to the practice of physical therapy; and relating to the practice of occupational therapy."

[9:03:42 AM](#)

REPRESENTATIVE MATT CLAMAN, SPONSOR, introduced himself and shared that he was carrying the bill at the request of the Alaska physical and occupational therapy associations. He read from prepared remarks:

House Bill 99 amends the governing statutes for physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants practicing in Alaska. The changes it makes are designed to bring Alaska statutes in line with national standards and terminology and overall make the administrative experience of these professionals more efficient and up to date. This bill is supported by the state Physical Therapy and Occupational Therapy Board, which believes House Bill 99 will help the board in its work to protect the public. A letter stating their support is in your packet.

Currently, physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants are represented by the state

Physical Therapy and Occupational Therapy Board. This board is made up of one physician, three physical therapists, two occupational therapists, and one member of the public. The first change made by this bill is to remove the physician from this board and replace them with another occupational therapist. Thereby balancing the representation of the professionals on the board. There's good reason for this. When the statute was originally written, the work of physical and occupational therapists required referral by a physician. This has not been the case in Alaska for more than 30 years.

House Bill 99 also enables the board to discipline a therapist who commits infractions under AS 08.84.120, such as conviction of a felony, gross negligence, or abuse of alcohol. Currently, the board has the ability to revoke or deny a license based on infractions but has no ability to discipline. This bill also clarifies the language and the requirements for those therapists who receive their training outside of the United States, ensuring that their training is equivalent to a U.S. professional physical therapy training program and also exempting therapists trained in an English language program for having to take an English proficiency test.

Furthermore, this bill updates language in Alaska statutes that references an accrediting entity that no longer exists and makes the language more general, allowing the state board to designate the appropriate accrediting entity as needed.

[9:06:20 AM](#)

Representative Claman continued reading from a prepared statement:

Several other updates to terminology are made to update the language. House Bill 99 does not constitute a restructuring of the relevant statute, but it contains a number of long awaited changes. This is a way to make it easier for professionals to do business in Alaska.

JOEY BOSWORTH, STAFF, REPRESENTATIVE MATT CLAMAN, stated his understanding that the committee did not need a review of the sectional analysis.

Co-Chair Merrick concurred. She OPENED public testimony.

ALEC KAY, PRESIDENT, ALASKA CHAPTER OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION (via teleconference), testified in support of the legislation. He discussed that the bill was primarily language modernization and improvement for the practice. Additionally, the bill would provide more clarity for the public. He pointed out that the bill was supported by several licensees who had written letters, the state licensing board, and the member association of chiropractors in Alaska. He hoped the bill would move forward to improve the practice and protections of the public. He thanked the committee.

Co-Chair Merrick CLOSED public testimony.

[9:08:44 AM](#)

AT EASE

[9:09:35 AM](#)

RECONVENED

Co-Chair Merrick asked the Legislative Finance Division (LFD) to speak to the fiscal note.

SABRINA JAVIER, FISCAL ANALYST, LEGISLATIVE FINANCE DIVISION (via teleconference), reported that LFD had no technical issues with the fiscal note. She was available for questions.

Co-Chair Merrick shared that the committee had been told the board had sufficient funds to cover the \$2,300 fiscal note. She asked if LFD believed the committee could zero-out the note.

Ms. Javier answered that based on the FY 20 annual professional licensing report, the board had a surplus of over \$280,000; therefore, LFD believed the department could potentially absorb the one-time cost of \$2,300.

Representative Josephson agreed the board could afford it, but he had never seen a fee borne by the Division of Corporations, Business and Professional Licensing (CBPL) absorbed by the board itself.

Ms. Javier answered that it was merely a suggestion to committee members to take into consideration. She deferred to the Department of Commerce, Community and Economic Development (DCCED) about absorbing costs in prior fiscal notes.

9:12:06 AM

SHARON WALSH, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING (CBPL) (via teleconference), believed Representative Josephson was asking whether costs associated with the program could be absorbed and whether the fee was for regulation or legal costs.

Representative Josephson clarified his support for the bill. He had no problem with the fiscal note. However, he remarked that he had never seen a board charged with the cost of a fiscal note.

Ms. Walsh answered that the practice was pretty standard based on her understanding of fiscal notes.

Co-Chair Foster MOVED to REPORT HB 99 out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

HB 99 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

9:13:47 AM

AT EASE

9:18:37 AM

RECONVENED

Co-Chair Merrick noted that Representative Johnson had joined the meeting.

#hb117

HOUSE BILL NO. 117

"An Act extending the termination date of the Board of Certified Direct-Entry Midwives; and providing for an effective date."

9:18:47 AM

REPRESENTATIVE DAN ORTIZ, SPONSOR, reintroduced the bill that would extend the Board of Certified Direct-Entry Midwives. He summarized that committee members had heard the bill the previous week where there had been good discussion. He was available for any questions. He listed others available for questions.

Representative Johnson referenced the audit recommendation for the board to improve oversight of the peer review process. She asked how the board intended to improve oversight.

BETHEL BELISLE, CHAIR, BOARD OF CERTIFIED DIRECT ENTRY MIDWIVES, ANCHORAGE (via teleconference), answered that the board had already begun the process to completely revamp the peer review method. She explained the process that had been in place since 2014. She detailed that a committee of midwives unaffiliated with the board received charts of any outcome listed in statutes and regulations including the death of the mother of a baby, an emergency transport of any kind, or if a midwife went outside regulations. For example, if a midwife attended a woman at a home birth and the baby was being delivered breached, the midwife was required to call 911. She elaborated that if emergency responders did not arrive, the midwife may deliver the baby and was then required to submit the chart.

Ms. Belisle reported that the board had removed the entire committee and had brought the entire peer review process back to the board. She explained that any midwife who had a birth under the aforementioned categories, was required to submit the chart to the board for review. The updated process gave the board the ability to provide discipline as needed or to send the case to investigation if outside the board's regulation. She elaborated that currently when the board received charts, it reviewed paperwork to determine whether a midwife had followed procedures, obtained signed consent, and protected the public interest. The board had

moved from a peer review committee back to a board review. She shared that the process was in the final stage with legal to ensure it was up to the state standard.

Representative Johnson she asked if in the peer review process the board was taking responsibility for monitoring and addressing any problems. She asked how the process would differ from the former review by a peer review committee. She asked if the board would have more ability to directly address issues.

Ms. Belisle replied that the old committee was called an action accountability committee. The only thing the committee could do was determine whether a midwife had or had not followed procedures. She elaborated that if the committee determined a midwife had not followed procedures, the chart was sent to investigation. Under the new process, the board would receive the charts for review. The board would also be able to tell someone under review they needed more education on a specific issue. She expounded that in a scenario where there was no death of a mother or baby. She explained that the board could determine there had been numerous pink flags that the midwife should have identified earlier. The board would have the ability to discipline by requiring more education, a fine, or accountability under another midwife.

[9:24:28 AM](#)

Representative Wool looked at the two-year extension recommendation. He noted that an audit took one year. He asked if two years was enough time to realize changes and see the impacts.

Ms. Belisle replied in the affirmative related to the peer review portion. She detailed that the peer review change should be completed in 2021. The board had already begun a process to change the statutes to align with national standards. She stated that while the board may not get all the way through the process, she believed the auditor would be able to see the board had made significant changes and that it was on a trajectory to meet the changes that would meet or exceed the national standard.

Representative Wool looked at the biennial \$3,800 license fee for a midwife. He wondered at what point a fee would become cost prohibitive and result in the loss of

practicing midwives. He noted that fewer practicing midwives would mean a higher fee. He asked if the license fee was currently at the top end of affordability.

Ms. Belisle responded in the affirmative. She reported that as the license fee had increased to the current amount in recent years, the number of licensed midwives had stayed fairly static at 40. She confirmed that the fee was cost prohibitive. She considered the \$3,800 fee and relayed that a Medicaid payment for a birth was about \$3,400. She explained that for midwives without large practices it was difficult to stay licensed due to the high license fee. She did not believe the fee could go any higher.

9:27:00 AM

Representative Wool provided a hypothetical scenario where an additional investigation may require the board to raise fees due to the cost. He thought the current number of midwives was around 50, but he noted Ms. Belisle had listed the number at 40. He was concerned an increased fee may decrease the number of licensed midwives from 40 to 30. He asked if the number of midwives had been increasing up until the past several years.

Ms. Belisle confirmed there were 40 licensed direct-entry midwives and 10 licensed apprentices. She relayed the apprentice fee was \$850 for a two-year license. She stated that practicing midwives had selected the profession as their career path and would work diligently to maintain the fees. She shared that she would not leave her practice merely because it got more expensive. She noted it was a difficult procedure to move forward to think about a potential investigation. She was happy the board was taking over the peer review process and was hopeful it would decrease the likelihood of an investigation due to increased oversight by the board.

9:28:54 AM

Representative Wool referenced Ms. Belisle's statement that the number of midwives was remaining flat. He asked if the population of midwives had typically increased in the past. He asked about the license fee in Washington, Oregon, and California.



Ms. Belisle answered that the number of midwives in Alaska had been relatively flat for the past ten years. She shared that when she received her original license in 1999, her license had been number 25. She noted that license numbers had changed, and the number of midwives had fluctuated over time. The number of licensees was remaining flat, particularly because some of the education requirements in regulation had changed, which made it harder for women in Alaska to become midwives. She reported that the license fee in Oregon was \$600 every two years. She did not know the fee in Washington.

Representative Johnson asked about the peer review process. She looked at the audit recommendation to move the peer review process under the board. She noted that the documents did not mention the board's plan to have the process brought back to the board. She asked when the process would be brought back to the board.

9:30:40 AM

Ms. Belisle answered that the board had started the process to change its regulations for the new peer review in March 2020. She believed the process had been slowed down due to COVID, but it was currently under review by legal. She relayed that the process was not part of the original audit. She noted she was not the original chair of the board and the information had not been given to the auditor at the time the audit had been performed.

Representative Johnson asked about the timeline.

Ms. Belisle believed the process should be done by October.

Co-Chair Merrick OPENED public testimony.

MADI GRIMES, PRESIDENT, MIDWIVES ASSOCIATION OF ALASKA, JUNEAU (via teleconference), shared that she lived and worked in Juneau had had been a licensed midwife for seven years. She spoke in support of the bill and certified direct-entry midwives. She referenced a document titled "Midwifery in Alaska" located in members' packets (copy on file). She read from prepared remarks:

Certified direct-entry midwives have been licensed in the State of Alaska for nearly 30 years. In that time more Alaskan constituents are accessing midwifery care

every year and we see the demand for home and birth center births grow. Midwives are trained through an accredited education program and are focused on providing individualized care to low-risk individuals. We are integrated in the larger healthcare system and refer high-risk clients to physicians when the need arises. Our goal as a midwifery group is to provide the highest quality care while ensuring the safest outcomes possible.

Midwife-led care has been found to reduce the risk of costly complications and interventions, such as cesarean births, preterm births, and low birth weight incidents. This cost savings can be directly tied back to the state cost savings as approximately 30 percent of families receiving midwifery care are Medicaid recipients.

Some of the supporting documents in your packet include an epidemiology report outlining the demographics and outcomes of Alaskan families as well as a couple studies showing the cost savings and safety outcomes of families who receive midwifery care. Highlighting the Strong Start study run by the Centers for Medicare and Medicaid Innovation - this study shows a savings of \$2,000 per pregnant person that receives prenatal care with a midwife regardless of their ultimate location of birth. An interesting footnote in that study is that we actually had three Alaskan birth centers participate in this study group furnishing data. Our association supports the passing of House Bill 117. Thank you.

[9:34:21 AM](#)

Co-Chair Merrick CLOSED public testimony.

Co-Chair Merrick asked the Legislative Finance Division (LFD) to discuss the fiscal note.

SABRINA JAVIER, ANALYST, LEGISLATIVE FINANCE DIVISION (via teleconference), reported that LFD had no issues with the fiscal note put forward by the Division of Corporations, Business and Professional Licensing (CBPL). She was available for questions.

Representative Wool referenced the \$21,800 designated general fund cost in the fiscal note. He asked if the cost was paid by the board and if it was the standard process. He asked if it would be the process going forward for all boards.

Ms. Javier answered that the receipt supported services code 1156 was essentially treated like general fund program receipts. The department could not spend the \$21,800 for FY 22 and FY 23 unless it collected the funds. The fiscal note was asking for authority to use the funds.

[9:36:07 AM](#)

Representative Josephson referenced the \$21,800 outlined on page 2 of the fiscal note. He asked for verification that the expenses were typical and should not increase the (already very high) annual fee for a licensee. He surmised the cost was a reflection of life in the division and the costs it absorbed for the board.

Ms. Javier responded in the affirmative. She elaborated that the expenses the department had put forward reflected a projection and request for spending authority.

Representative Josephson provided his understanding of what would take place if the board extension were five years instead of two years. He surmised four years would go by and the legislature would not know, but the agency would be requiring the payment of \$21,800 from the licensees.

Ms. Javier noted that the division may be able to better answer the question. She explained that if the program were going to extend for the next five years, the fiscal note would show the \$21,800 in receipt supported services for the next five years. She elaborated that the fiscal note would give the division authority to collect the fees to fund the program.

[9:38:10 AM](#)

Representative LeBon looked at the expenses summarized in the fiscal note. He observed that about \$20,000 was indicated for travel for five board members and staff to attend four board meetings per year. He asked if one or two of the meetings could be held via videoconference or if there was a requirement to meet in person.

Ms. Javier deferred the question to the department.

SHARON WALSH, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING (CBPL), DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), asked Representative LeBon to repeat the question.

Representative LeBon restated his question.

Ms. Walsh answered that the department encouraged Zoom meetings to reduce some of the fiscal costs. She noted the decision was up to the board. She relayed that the board's annual report to the department projected any travel for the year, which had to be approved by the division director. She detailed that some boards had a statutory requirement to meet in person (e.g., the medical board), but most did not. She did not believe the board under discussion had a requirement to meet in person.

Co-Chair Merrick asked Ms. Belisle if the board had considered meeting electronically.

Ms. Belisle answered that the board had not met in person for several years. She expounded that all of the meetings in the past 1.5 years had been via Zoom. She noted there had been no travel for a minimum of two years.

Representative LeBon wondered why the licensing fees were so high when the board was not traveling.

Representative Wool calculated that the 40 licensed midwives and 10 apprentices brought in \$160,000 every two years or \$80,000 annually. He remarked that \$20,000 went to travel. He was surprised the fiscal note had not been reduced to reflect there had been no travel in recent years. He thought reducing the amount for travel would provide the board with more funding to spend on any investigations. He thought perhaps it would lower the license fee.

[9:42:59 AM](#)

Ms. Javier responded that if the board were doing more Zoom meetings and did not incur the \$20,300, the funding would

sit as hollow authority. She did not know how it would impact the licensee fees.

Representative Wool highlighted the vast cost difference between the two board extensions discussed by the committee during the meeting. He noted the fiscal note for the first board was \$2,300 whereas the fiscal note for the midwifery board exceeded \$20,000. He remarked that a layperson would question why one board was spending ten times the amount spent by another board. He thought it would be in the best interest of the board and CBPL to make the numbers more accurate.

9:44:57 AM

AT EASE

9:46:39 AM

RECONVENED

Co-Chair Merrick asked the Division of Legislative Audit to address the committee.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, highlighted that the legislation was a board extension bill. She elaborated that the licensing function would remain with the division if the board were not extended. She clarified that the fiscal note only reflected the cost of continuing the board itself and did not reflect the cost of licensing the entire occupation. She stated that board members were not compensated but often they were paid per diem, which was coded to travel even if there was no actual traveling. She did not know whether it was the case for the midwifery board.

Representative Wool understood that per diem was not travel. He remarked that a board member doing a Zoom call from home did not incur the cost of lodging and meals. He thought per diem was directly relatable to hotels and meals while traveling.

Ms. Curtis answered that there were five categories including personal services, travel, services, commodities, and capital projects that showed up as codes in budgetary documents. She explained that per diem was part of the travel code. She thought there could be amounts budgeted under travel that was used for something other than airfare or hotel.

Co-Chair Merrick asked if a stipend could be used as another term for per diem.

Ms. Curtis replied in the affirmative.

Representative Wool surmised that the increment in the fiscal note was coded travel, but it could reflect a board member being paid to attend a board meeting, whether in their living room or a conference room in Anchorage.

Ms. Curtis agreed. She believed the department was responsible for drafting the fiscal note and could provide more explanation on the reason for budgeting \$20,000 per year for a board meeting four times.

9:49:38 AM

Ms. Walsh answered that travel was estimated at \$20,300 based on five board members and one staff attending four meetings per year. She added that the amount did not necessarily reflect what the board would do. She expounded that if board members wanted to travel, the amount provided an idea of the cost.

Co-Chair Merrick asked if [midwifery] board members received a stipend for attending a board meeting electronically.

Ms. Walsh answered that board members received \$16 per day if they chose to submit the paperwork.

Representative Wool considered that board members received \$16 per day to attend a meeting from home [or elsewhere]. He asked if board members also received per diem or any other portion of the \$20,000 if there was no travel. He thought it would be more in the board's interest to show a lower fiscal note. He suggested it may be beneficial to lower the amount if the board was not using the hollow receipt authority.

9:51:37 AM

Representative Edgmon thought another way to look at the fiscal note was that the money not spent would be lapsed to the subsequent year. He clarified that the amount in the fiscal note was merely a budget item for a maximum of five

members and four meetings. He asked whether the funds could lapse to the FY 23 budget if not expended.

Ms. Javier responded that the CBPL allocation had language in the operating budget allowing the division to carry forward receipt supported services authority.

Representative Edgmon referenced the license fees coming in from 40 midwives and 10 apprentices in the amount of \$3,800 and \$850, respectively. He asked if the approximately \$50,000 per year from fees came into the department via language in the operating budget.

Ms. Javier answered that there was conditional language in the numbers section of the budget allowing for the funds to be carried forward.

Representative Thompson referenced the audit and observed that the board was in a deficit situation. He assumed if the board did not spend the \$20,000 on travel, its deficit would be reduced.

Ms. Javier asked Representative Thompson to repeat his question.

Representative Thompson repeated his question.

Ms. Javier confirmed that it was her understanding.

[9:55:01 AM](#)

Representative Johnson considered the audit recommendation for the board to update the peer review process. She stated her understanding the board was transitioning to having peer reviews done by the board. She thought the previous peer review process was perhaps not carried out to the level auditors preferred. She asked if the auditors had recommended a board review. She asked if there had been a recommendation on how to update the review process.

Ms. Curtis answered that the audit recommendation was very general. The audit had found the board did not have internal controls over monitoring the peer review process it had delegated to the Midwife Association of Alaska's action accountability committee. The board had delegated the process and had not been overseeing it or monitoring it, which increased the risk of deficiency and to public

safety. The audit recommendation was for the board to improve its monitoring of the process. She understood the board had taken over the review process. She had no comment on the change until the Division of Legislative Audit was able to review the updated process.

[9:56:59 AM](#)

Co-Chair Foster MOVED to REPORT HB 117 out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

HB 117 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

[9:57:26 AM](#)

AT EASE

[10:00:05 AM](#)

RECONVENED

Co-Chair Merrick reviewed the schedule for the following meeting.

#

ADJOURNMENT

[10:00:14 AM](#)

The meeting was adjourned at 10:00 a.m.